

A nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under section 501(c)(4) of the Code.

The Internal Revenue Service has been asked whether the organization described below qualifies for exemption from Federal income tax as a social welfare organization under section 501(c)(4) of the Internal Revenue Code of 1954.

The organization was incorporated as a nonprofit membership corporation for the purpose of providing specified services for the home owners in a housing development. The services consist of maintenance of the exterior walls and roofs of the individual home units. This includes, for example, painting of exterior walls and repair of roofs. If a person purchases a unit in the housing development, he is required to become a member of the organization. The organization is supported entirely by annual dues charged members. The dues are based on the estimated expenses of the organization plus an amount for reserves to cover large expenditures, such as replacement of roofs.

The organization's bylaws provide that all members have equal voting rights. The organization is managed and controlled by a board of directors elected from and by the members. The officers of the organization are elected from the board of directors and have authority to contract for maintenance and repair services. The developer is not involved in the operation or management of the organization.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterment and social improvements.

The organization here described is performing services that its members would otherwise have to provide for themselves. It is a private cooperative enterprise for the economic benefit or convenience of the members. In *Commissioner v. Lake Forest, Inc.*, 305 F.2d 814 (1962), it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help

enterprise with only an incidental benefit to the community as a whole.

Similarly, in this case it is held that the organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, this organization is not exempt from Federal income tax as a social welfare organization under section 501(c)(4) of the Code.